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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,867	10/01/2004	Nahoko Takano	Q83996	9778
23373 7590 12/29/2010 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
BRANDT, CHRISTOPHER M				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
12/20/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
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Office Action Summary

Application No.

10/509,867

Applicant(s)

TAKANO ET AL.

Examiner

CHRISTOPHER M. BRANDT

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-75 and 79-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-75 and 79-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This Action is in response to applicant's arguments submitted on October 14, 2010.

Claims 70-75 and 79-82 are still currently pending in the present application.

Response to Arguments

Applicant's arguments with respect to claims 70-75 and 79-82 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 70-75 and 79-82 are rejected under 35 USC 103(a) as being unpatentable over **Toskala et al. (US Patent 6,650,905 B1, hereinafter Toskala)** in view of **Hwang et al. (US PGPUB 2002/0196766 A1, hereinafter Hwang)**.

Consider **claim 70 (and similarly applied to claims 72, 74, 79, and 81)**. Toskala discloses a cellular system comprising a mobile station and a plurality of base stations that are in a handover state with said mobile station (figure 12, column 10 lines 18-25, read as a user equipment (i.e. mobile station) and an active set of cells (i.e. plurality of base stations), one of said base stations, as a packet transmission base station, performing transmission of a packet to said mobile station by the use of a shared channel (column 9 line 61 – column 10 line 11, read as the DSCH (downlink shared channel) is to be used for WCDMA for transmission of packet data in the downlink, where this downlink is used to communicate between the base station and the user equipment),

wherein said mobile station comprises:

means for controlling a reception quality of a transmission power control signal included in a downlink dedicated channel sent from the base stations, by controlling a target SIR (column 3 line 65 – column 4 line 17, column 10 lines 22-29, read as the user equipment selects one cell (i.e. base station) from its active set, where the non-selected cells switch off the transmission power. The transmission power level used for DPCCH (dedicated physical control channel) is managed/updated using ordinary transmit power control methods, where the ordinary

transmit power control methods include detecting an SIR and sending TPC commands from the mobile station (i.e. controlling a reception quality) to adjust the power levels accordingly).

Toskala discloses the claimed invention but fails to explicitly teach a transmission power control signal included in a downlink dedicated channel sent only from the packet transmission base station.

However, Hwang teaches a transmission power control signal included in a downlink dedicated channel sent only from the packet transmission base station (paragraph 96, read as the UE receives a downlink dedicated channel from the Node B, the UE controls the downlink transmission power in a closed-loop power control mode. It is noted that in a closed-loop power control mode, the UE is only communicating with one Node B).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Hwang into the invention of Toskala in order to more efficiently control the power in the downlink dedicated channel.

Consider **claims 71, 73, 75, 80, and 82 and as applied to claims 70, 72, 74, 79, and 81, respectively**. Toskala discloses wherein said mobile station further comprises: means for producing the transmission power control signal for controlling transmission power of the downlink dedicated channel on the basis of the target SIR to transmit the transmission power control signal to the packet transmission base station through the uplink dedicated channel (column 3 line 65 – column 4 line 17, read as the mobile station sends TPC commands to the base station, where the power control commands are sent on the uplink dedicated physical control channel).

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

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Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Brandt whose telephone number is (571) 270-1098.

The examiner can normally be reached on 7:30a.m. to 5p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Christopher M Brandt/

Examiner, Art Unit 2617

December 10, 2010